

REMARKS

This amendment follows the outstanding Official Action dated 10/13/05 and is intended as a complete and proper response thereto. In particular, the present paper is presented with the view of advancing prosecution of this application on its merits and hopefully placing this case in a clear condition for allowance.

In order to render this Amendment responsive, a Petition for Extension of Time to Respond Within the Third Month Pursuant to § 1.136(a) is submitted herewith in duplicate along with the requisite petition fee of \$510.00 commensurate with the applicant's small entity status as previously established.

Claims 1-20 remain in the application. These claims have been amended in accordance with the examiners detailed action. Reexamination and reconsideration of the application, as amended, is requested.

Claims 6-8 as originally presented have been rejected under 35 U.S.C. § 112. The examiners changes and suggestions have been made to overcome this rejection. In particular, the portable limitation has been deleted.

As initially presented claims 1 and 2 were rejected under 35 U.S.C. 102(b) as being clearly anticipated by Zollner et al 5,336,052. For prior art to anticipate under § 102, every element of the claimed invention must be identically disclosed,

either expressly or under principles of inherency, in a single reference. *Corning Glass Works v. Sumitomo Electric*, 9 U.S.P.Q. 2d 1962, 1965 (Fed. Cir. 1989). The exclusion of a claimed element, no matter how insubstantial or obvious, from a prior art reference is enough to negate anticipation. *Connell v. Sears, Roebuck & Co.*, 220 U.S.P.Q. 193, 198 (Fed. Cir. 1983).

As can be seen, claim 1 has now been amended to include the limitation of the pump ram cap fixedly attaching the pump ram inside the hydraulic cylinder ram, such that the pump rams and the hydraulic cylinder rams operate in unison. Upon review of the Zollner et al. patent, among other things, it is readily apparent that Zollner et al. does not disclose a pump ram cap such that the pump ram and hydraulic cylinder rams operate in unison and in fact, the pump ram and hydraulic cylinder rams operate in opposite directions. As such, it is believed that for at least this reason alone, the current rejection under Section 102 has been rendered moot.

The Examiner has further rejected claims 3 -8 under 35 U.S.C. § 103(a) as being unpatentable over Zollner et al. in view of Stephens 5,141,363 and further in view of Zimmerman 3,485,481. For prior art references to be combined to render obvious a subsequent invention under § 103, there must be something in the prior art as a whole which suggests the desirability, and thus the obviousness, of making the combination. *Uniroyal v. Rudkin-Wiley*, 5 U.S.P.Q. 2d 1434, 1438 (Fed. Cir. 1988). The teaching of the references can be combined only if there is some suggestion or incentive in the prior art to do so. *In re Fine*, 5 U.S.P.Q.

2d 1596, 1599 (Fed. Cir. 1988). Hindsight is forbidden. It is impermissible to use the claims as a framework from which to pick and choose individual references to recreate the claimed invention. *Id.* at 1600; *W.L. Gore*, 220 U.S.P.Q. at 312. Moreover, the mere fact that a prior art structure could be modified to produce the claimed invention would not have made the modification obvious unless the prior art suggested the desirability of the modification. *In re Fritch*, 23 U.S.P.Q. 2d 1780, 1783 (Fed. Cir. 1992); *In re Gordon*, 221 U.S.P.Q. 1125, 1127 (Fed. Cir. 1984).

Once again, it is believed that the amendment of claim 1 to include the pump ram cap renders these arguments moot as no pump ram cap is shown in the prior art of record and as discussed above, it has been shown that independent claim 1 is patentable over the prior art of record. As such, the further rejection of dependent claims based upon this has also been rendered moot.

Claims 9-13 in the application were previously allowed and are not currently amended in this response. Claims 14 and 15 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Zollner et al. in view of Zimmerman while claims 16-20 were objected to as being dependent upon a rejected base claim but as stated by the examiner, would be allowable if rewritten in independent form to include the limitations of the base claim and any intervening claims. As such, claim 14 was amended to include the limitation of claim 16, namely a pump ram cap fixedly attaching said pump ram and said hydraulic cylinder ram such that said pump ram and said hydraulic cylinder ram operate in unison.

It is believed that this amendment renders moot the current rejection of claim 14 and 15 as it includes the limitation of allowable but objected to claim 16. Claim 15 was amended to read in accordance with the amended claim 14. As such, it is believed that the current amendments overcome any of the rejections based upon the prior art of record and specifically render moot the rejections based upon the Zollner et al., Zimmerman and Stephens patents as they show the use of a pump ram cap fixidly attaching the pump rams and hydraulic cylinder rams such that the rams operate in unison.

In light of the foregoing discussion of the applied art of record, the presentation of the amended schedule of claims and the indication as to how such claims are considered to clearly and patentably define over the references, it is believed that the patentable nature of the claims has been demonstrated.

In view of the above remarks, reconsideration and allowance of the claims is kindly requested. Should any matters remain outstanding that may be handle over the phone the examiner is encouraged to call.

Respectfully Submitted,

Date: 4-13-06



Curtis V. Harr
Attorney for the Applicant
Reg. No. 37,844
P.O. Box 2842
Fargo, ND 58108-2842
Voice (701) 298-3001
Fax (701) 298-3002